

# Field Audit Of Wisconsin Tax Returns

## WHY ARE RETURNS SELECTED FOR FIELD AUDIT?

The usual reason for selecting Wisconsin tax returns for field audit is to verify the correctness of various items (income, sales, purchases, inventories, and deductions) that have been reported on the returns.

The majority of taxpayers are honest and have nothing to fear from an examination of their Wisconsin tax returns. The fact that returns have been selected for field audit does not suggest a suspicion of willful evasion of correct tax reporting.

## WHAT IS A FIELD AUDIT?

A field audit is a **detailed** examination of your books and records to determine if the correct amounts were reported on the tax returns. In some instances the auditor will obtain information from other sources such as banks, creditors, suppliers, etc., to verify items on the returns.

A field audit usually includes one or more of the following taxes: income, franchise, sales and use, withholding and excise taxes. Wisconsin Statutes authorize the department to conduct field audits of tax returns (ss. 71.74(2), 77.59(2), 78.80(lm), 139.092 and 139.39(6)).

If possible, the audit will be conducted at your place of business, in your home or at the office of your accountant, attorney or other person who may represent you. The auditor will try to select the place that is most appropriate under the circumstances and most convenient for you.

The audit begins when you are notified by letter that your tax returns have been selected for examination. The letter also informs you of the time and date of your first meeting with the auditor. At this meeting the auditor will want to discuss the nature of your business or employment, the accounting or record system used and other related matters. If you assemble your records in a neat and orderly manner before this meeting, you may be able to resolve unclear items with the least amount of time and effort. The auditor may also want to meet with you again at various times during the audit to ask questions about certain transactions.

## HOW MANY YEARS WILL BE AUDITED?

A field audit will generally include the tax returns for the last four years. Wisconsin Statutes (ss. 71.77(2), 77.59(3), 78.70(7), 139.092, 139.39(6) and 139.83) state that a notice of assessment or refund resulting from a field audit must be given to the taxpayer within four years of the due date of the return or the date the return was filed, whichever is later. This period may be extended if agreed upon in writing by the taxpayer and the department. (For example, a taxpayer may be requested to sign an extension agreement if he or she has delayed the audit, with the result that a particular year's audit cannot be completed within the four year period.)

Two exceptions to this four year audit period are:

1. An assessment of additional income or franchise taxes may be made within six years after a return was filed if (a) less than 75% of the correct taxable income was reported on the tax return, and (b) the additional tax is over \$100 for that return.
2. If no return was filed or if an incorrect return was filed with intent to defeat or evade the taxes, there is no limit as to how many years the department may go back to assess additional taxes. This applies to income, franchise, withholding, sales and use and excise tax returns.

## CLAIMS FOR REFUND

The auditor will plan the audit work to try and operate as efficiently as possible in an attempt to bring the audit to an early conclusion. Occasionally, a taxpayer will file a claim for refund during the audit. To assist in the audit process, you should file any claim for refund as early in the audit process as possible so the auditor can plan for and include the review of the claim for refund in the audit work. If you file a claim for refund late in the audit process, it is possible that action on this claim for refund may not be able to be included in the audit report and assessment or refund notice resulting from the field audit.

## INTEREST AND PENALTIES

Interest on refunds of taxes is 9% per year; interest on assessments of additional taxes is 12% per year. Interest on delinquent taxes (taxes not paid by the due date of the return or a notice of assessment) is 18% per year.

A 25% penalty may be imposed if there was negligence in filing the tax return. (Example: If the additional tax assessed by field audit was \$1,000 and it was determined that negligence was involved, the penalty would be \$250.) An additional penalty of 25% may be imposed on assessments which result from the fact that sufficient records have not been maintained, if you were notified in a prior audit that your records were insufficient (this applies to income, franchise, withholding, and sales and use tax returns).

If a tax return was not filed or an incorrect return was filed with intent to defeat or evade taxes, a 50% or 100% penalty may be imposed, depending on the type of tax.

## COMPLETION OF THE AUDIT

Upon completing the audit, a conference is usually held at which time the auditor will review with you (and/or your authorized representative) the audit report containing any proposed adjustments, changes in the tax liability, interest and penalties. It is important that you understand any changes, so don't hesitate to ask questions about anything that is not clear to you.

At the conference the auditor will ask if you agree in full, agree in part, or disagree totally with the proposed audit report. If you agree in full, the auditor will ask you to sign the Notice of Proposed Audit Report form indicating you are in full agreement. If you do not fully agree with the report, you will be asked to contact the auditor or the auditor's supervisor to further discuss your objections. (Differences can often be settled during these additional conferences without expensive and time consuming appeal hearings and court trials.) You will then be asked to sign the Notice of Proposed Audit Report form indicating whether you agree fully, partially or disagree totally.

If the field audit results in an assessment of additional tax and you agree with the assessment you may wait until the audit is completely processed and any amount due is billed or you may **PREPAY** the amount due. If you wish to prepay the amount due, merely inform the auditor that you wish to do so and the auditor will furnish you with the audit report with interest computed to the date payment will be made. The prepaid field audit will then be processed and you will receive official written notice of the prepaid field audit assessment action which you should file along with the field audit report you were given by the auditor

In the case of field audit actions, other than prepaid assessments, the department will notify you by mail of the results of the field audit. If there are changes to be made in the tax you self-determined, you will receive an assessment or refund notice and a copy of the audit report. The notice and report will explain the adjustments, the amount of tax, interest and penalty (if any) and your appeal rights. If there is no tax due or no refund, a letter will be sent to you explaining that there is no change in your tax liability.

## APPEAL RIGHTS

Except for the refund claim procedure described below, field audit actions, including both assessment and refund actions, become final unless appealed and generally preclude any further adjustments to the years covered by field audit.

**If a taxpayer agrees.** If you agree with an assessment notice, you should pay the total amount due by the date shown on the notice. If you agree with a refund notice, no further action is needed by you. A refund check will be mailed to you.

**If a taxpayer disagrees.** If you disagree with the adjustments and wish to contest the assessment or refund notice, you may file a petition for redetermination (appeal) within 60 days after the date you receive the notice of assessment or refund. Your appeal should explain clearly and concisely why you think the Department of Revenue's action is incorrect. Include any supporting documents. Mail your appeal to the Wisconsin Department of Revenue, Mail Stop 5-257, PO Box 8906, Madison, Wisconsin 53708

The Department's action on your appeal could result in one of the following: 1) no change to the original notice, 2) a decrease in the amount shown on the original notice, or 3) an increase in the amount shown on the original notice.

In the alternative, you may pay the full amount of the assessment without filing an objection. If you later wish to contest some or all of the adjustments, a claim for refund may be filed. This claim for refund must be filed within two years from the date the assessment notice was issued. For income or franchise tax refunds for years beginning on or after January 1, 2000, this claim for refund must be filed within four years from the date the assessment notice was issued. (Exception: The time

period is four years from the due date of the Wisconsin income or franchise tax return in the case of sales tax refunds if the refund will be passed on to your customers.)

In the case of a refund notice, the refund check will be mailed automatically. Accepting and depositing this check will not prevent you from appealing the notice if you believe you should receive a larger refund.

Refer to Publication 506 *Taxpayer's Appeal Rights of Field Audit Adjustments* which will be enclosed with any assessment or refund notice resulting from a field audit action.

## DEPOSIT TO STOP INTEREST

A taxpayer may make a deposit of the entire amount of the assessment (including any interest and penalty) to stop the accumulation of interest. The deposit may be submitted to the Department of Revenue any time after the assessment notice is issued and before the Department of Revenue issues a decision on the appeal.

1. **Deposit on Tax Contested.** Any amount deposited must be **accompanied** by a statement that the taxpayer disagrees with the adjustments, but is making a payment to stop the accumulation of interest. Any deposited amount which is later refunded will bear interest at the rate of 9% per year computed from the date of the deposit to the date refunded.
2. **Payment on Agreed Tax.** A taxpayer may pay any portion of an assessment which he or she admits to be correct.

## REPRESENTATION

You may act on your own behalf or you may have someone represent you or accompany you during the audit and any subsequent appeal. If your representative desires to receive confidential information or a copy of the notice of assessment or refund and audit report, he or she may do so **only** if authorized by you in writing in a document filed with the department. Form A-222, Power of Attorney, or any other properly written power of attorney or authorization may be used for this purpose. Copies of Form A-222 may be obtained from any Department of Revenue office or from the auditor.